

Ruling 92-07

Vermont Department of Taxes

Date: July 8, 1992

Written By: Mary L. Bachman, Attorney for the Department

Approved By: Joyce H. Errecart, Commissioner of Taxes

You have requested a ruling regarding the timing of tax payments made under a direct pay permit. This ruling relies on the information conveyed in your letter of May 4, 1992. [Corporation] is the holder of a direct pay permit issued by the Vermont Department of Taxes pursuant to 32 V.S.A. § 9745. Accordingly, [Corporation] does not pay Vermont sales tax to its vendors at the time it purchases tangible personal property, but rather reports and pays the sales tax directly to the Department. You request confirmation that [Corporation's] direct pay permit allows it to defer reporting and payment of tax on non-exempt manufacturing plant purchases until such time as the items are withdrawn from storage and used in manufacturing.

32 V.S.A. § 9745 provides in relevant part: "[T]he commissioner may, in his discretion, authorize a purchaser, who acquires tangible personal property or services under circumstances which make it impossible at the time of acquisition to determine the manner in which the tangible personal property or services will be used, to pay the tax directly to the commissioner and waive the collection of the tax by the vendor."

Thus, direct payment permits are issued where there is uncertainty regarding whether the ultimate use of the property will be taxable. Although the statute does not specifically address the timing of direct payments, it follows that payment not be required until such time as it is determined whether the property will be put to taxable use. Since this is generally at the point that property is withdrawn from storage, property is not considered to be taxable until such time as it is taken from storage for a taxable purpose.

Persons holding direct payment permits are required to file monthly or quarterly returns (depending upon the amount of their use tax liability for the immediately preceding calendar year) which are due on or before the twenty-fifth day of the month for the previous calendar month or quarter. 32 V.S.A. § 9775(a). Since [Corporation] holds a direct pay permit issued by the Commissioner, sales and use tax is due from it on or before the twenty-fifth day of the month following the month or quarter in which the tangible personal property was withdrawn from storage for a taxable use.

This ruling is issued solely to your firm and is limited to the facts presented as affected by current statutes and regulations. Other taxpayers may refer to this ruling to determine the Department's general approach, but the Department will not be bound by

this ruling in the case of any other taxpayer or in the case of any change in the relevant statute or regulations.